

MICHIGAN ELECTION LAW (EXCERPT)

Act 116 of 1954

CHAPTER XXIX

CANVASS BY THE PRECINCT INSPECTORS

168.801 Canvass of votes by precinct inspectors; public access.

Sec. 801. Immediately on closing the polls, the board of inspectors of election in each precinct shall proceed to canvass the vote. Such canvass shall commence by a comparison of the poll lists and a correction of any mistakes that may be found therein until they shall be found or made to agree. Such canvass shall be public and the doors to the polling places and at least 1 door in the building housing the polling places and giving ready access to them shall not be locked during such canvass.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, Act 67, Eff. Sept. 6, 1963.

Popular name: Election Code

168.802 Excess ballots; disposition.

Sec. 802. When the board is ready to proceed with the counting of any kind of ballots, the box containing such ballots shall be opened and the whole number of ballots counted. If the ballots shall be in excess of the number of the electors voting according to the poll lists, the ballots shall be replaced in the box and 1 of the inspectors shall publicly draw out and destroy so many ballots therefrom unopened as shall be equal to such excess.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.803 Counting and recounting of votes; intent of voter; stray marks; instructions issued by secretary of state.

Sec. 803. (1) Except as otherwise provided in this act, the following rules govern the counting and recounting of votes:

(a) If it is clearly evident from an examination of a ballot that the ballot has been mutilated for the purpose of distinguishing it or that there has been placed on the ballot some mark, printing, or writing for the purpose of distinguishing it, then that ballot is void and shall not be counted.

(b) A cross, the intersection of which is within or on the line of the proper circle or square, or a check mark, the angle of which is within a circle or square, is valid. Crosses or check marks otherwise located on the ballot are void.

(c) Marks other than crosses or check marks used to designate the intention of the voter shall not be counted.

(d) A cross is valid even though 1 or both lines of the cross are duplicated, if the lines intersect within or on the line of the square or circle.

(e) Two lines meeting within or on the line of the square or circle, although not crossing each other, are valid if it is apparent that the voter intended to make a cross.

(f) A failure to properly mark a ballot as to 1 or more candidates does not alone invalidate the entire ballot if the ballot has been properly marked as to other candidates, unless the improper marking is determined to be a distinguishing mark as described in this subsection.

(g) Erasures and corrections on a ballot made by the elector in a manner frequently used for this purpose shall not be considered distinguishing marks or mutilations.

(h) A ballot or part of a ballot from which it is impossible to determine the elector's choice of candidate is void as to the candidate or candidates affected by that determination.

(i) A vote cast for a deceased candidate is void and shall not be counted, except that a vote cast for a candidate for governor who has died, and for whom a replacement has not been made, shall be counted for the candidate for lieutenant governor of that party.

(j) A ballot cast that is not counted shall be marked by the inspector "not counted", kept separate from the others by being tied or held in 1 package, and placed in the ballot box with the counted ballots.

(k) A vote shall not be counted for a candidate unless a cross or a check mark has been placed by the voter in the square before the space in which the name of the candidate has been printed, written, or placed.

(2) If an electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark with other

marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 195, Eff. Sept. 27, 1957;—Am. 1967, Act 37, Eff. Nov. 2, 1967;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004;—Am. 2015, Act 268, Imd. Eff. Jan. 5, 2016.

Compiler's note: This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

“A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.804 Canvass; manner of count and tally.

Sec. 804. In the canvass of votes cast for candidates for public office, the board shall count and tally each ballot in the manner as will best ensure accuracy and promptness in determining the result. The inspectors of election shall see that proper credit is given on the tally sheets to the candidates voted for on the ballots. All computations and tallies shall be made upon the tally sheets used at the election.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 2015, Act 268, Imd. Eff. Jan. 5, 2016.

Compiler's note: This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

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- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes _____

No _____

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

Popular name: Election Code

168.805 Ballots; packaging; statement; placement in ballot box; seal; delivery.

Sec. 805. (1) After the ballots are counted as provided in this chapter, the board of election inspectors shall securely tie the ballots in packages or rolls, and the board of election inspectors shall attach to each ballot bag an endorsed statement showing the number and kind of ballots included in the ballot bag. The statement shall be securely attached to the outside of the bag, as prescribed by the secretary of state.

(2) After all ballots are tied in packages or rolls, the board of election inspectors shall place the ballots in ballot bags approved by the secretary of state. The board of election inspectors shall then seal the bags with an approved seal that shall be furnished with the election supplies. The bags shall be placed in the ballot box or other ballot container provided for ballots under section 669 along with 1 tally sheet, if the tally sheet is not combined with the statement of returns. The board of election inspectors shall securely fasten and seal the ballot box or other ballot container with an approved seal furnished with the election supplies. The seal shall be affixed to render it impossible to open the ballot box or other ballot container without breaking the seal. The board of election inspectors shall then deliver the ballot box or other ballot container to the township, city, or village clerk.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 206, Imd. Eff. July 16, 1965;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

Popular name: Election Code

168.806 Duplicate statements of returns; contents, certificate as to correctness.

Sec. 806. (1) The election inspectors shall then prepare duplicate statements of the returns showing the whole number of votes cast for all offices voted that are to be canvassed by the board of county canvassers, the names of the persons for whom the votes were given, and the number each person received. The election inspectors shall also prepare duplicate statements of the results on any proposed constitutional amendment or other propositions submitted to the voters at the election that are to be canvassed by the board of county canvassers, showing the whole number of votes cast, the number of votes cast for, and the number of votes cast against the proposed constitutional amendment or other proposition.

(2) Each member of the board of election inspectors shall sign the certificate on the statement of returns as to the correctness of the returns and that the ballots have been packaged, sealed, and indorsed in the manner specified.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 2013, Act 51, Imd. Eff. June 11, 2013.

Compiler's note: Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

Popular name: Election Code

168.806a Seal; procedures.

Sec. 806a. Notwithstanding any other provision of this act to the contrary, when the board of election inspectors is required to seal a ballot box, voting machine, transfer case, electronic voting device, or any other election material, the following procedure shall be followed:

(a) An election inspector shall properly affix the seal to the item and shall certify the sealing on a form prescribed by the secretary of state for this purpose.

(b) Another election inspector who is from the other major political party than the election inspector described in subdivision (a) shall verify that the seal is properly affixed to the item and shall certify the verification on the form described in subdivision (a).

(c) The completed form described in this section shall be securely attached to the outside of the ballot box in the manner prescribed by the secretary of state.

History: Add. 1995, Act 261, Eff. Mar. 28, 1996.

Popular name: Election Code

168.807 Election results; availability.

Sec. 807. Immediately after the canvass has been completed, the result, stating the total number of votes received by each person voted for in said precinct for any office and the number of votes for and the number of votes against any proposed constitutional amendment or other submitted proposition, shall be made available to interested persons who may be present.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.808 Statement of returns; failure to sign certificate, falsification, penalty.

Sec. 808. Any member of the board of inspectors who fails to sign said certificate shall, upon conviction thereof, be deemed guilty of a misdemeanor. Should any member of the board of election inspectors subscribe to any statement in said certificate which is untrue, he shall, upon conviction thereof, be deemed guilty of a misdemeanor. Should any member of the board of inspectors knowingly subscribe to any statement in said certificate which is untrue, he shall, upon conviction thereof, be deemed guilty of a felony. Any person convicted of a misdemeanor under the provisions of this section shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment in the discretion of the court. Any person convicted of a felony under the provisions of this section shall be punished by a fine of not more than \$1,000.00 or by imprisonment in a state penal institution for not more than 4 years.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.809 Election returns and records; delivery; unofficial tabulation.

Sec. 809. (1) The board of election inspectors shall seal 1 of the statement of returns and 1 of the tally sheets or the combined tally return sheet with a red state election seal in an envelope and shall address the envelope to the board of county canvassers, in care of the judge of probate. The board of election inspectors shall deliver the sealed envelope to the clerk of the township or city. Upon receipt of the sealed envelope, the township or city clerk shall immediately deliver the envelope to the person to whom addressed. The judge of probate shall deliver the sealed envelope received by him or her to the board of county canvassers when it meets to canvass the returns.

(2) The board of election inspectors shall seal the other statement of returns or combined tally and statement, together with the poll list, in an envelope addressed to the county clerk. The board of election inspectors shall deliver the sealed envelope to the clerk immediately upon completion of the count. The county clerk shall open the envelope at that time, compile unofficial returns, and make the returns in the envelope available to the public. The office of the county clerk shall be open on election day for election purposes and shall remain open until the last returns have been received and the clerk completes an unofficial tabulation.

(3) If a local election to be canvassed by the board of county canvassers is not held in conjunction with a county or state election, the board of election inspectors shall deliver both sealed envelopes to the local clerk. The local clerk shall deliver both sealed envelopes to the county clerk before 11 a.m. on the day following the election. In a city or township election, in which the city or township consists of more than 5 precincts, held in conjunction with an election to be canvassed by the board of county canvassers, the board of election inspectors shall deliver the duplicate returns required by section 806 to the city or township clerk.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 1969, Act 241, Eff. Mar. 20, 1970;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2013, Act 51, Imd. Eff. June 11, 2013.

Compiler's note: Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

Popular name: Election Code

168.810 Poll list; delivery to clerk.

Sec. 810. One of the poll lists shall be delivered to the clerk of the township or city, as the case may be, and shall be by him filed in his office.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.810a Security of election materials.

Sec. 810a. (1) Upon request of the county clerk, a member of the board of county canvassers, or the county chair of a major political party, a city or township clerk, as appropriate, shall provide for security as prescribed in this section of the ballots, ballot boxes, and other election material described in the request and used in a precinct on election day. The city or township clerk shall provide the required security until 1 p.m. on the day immediately following the election, unless additional security is required of the clerk by the board of county canvassers under subsection (3). Subject to this section, the city or township clerk shall retain possession of the ballots, ballot boxes, keys to the boxes, keys to voting machines, and other election materials as otherwise required by law, until otherwise directed by the board of county canvassers.

(2) Upon receipt of the election materials described in subsection (1), the clerk shall immediately place the described election materials in a secure location. The clerk shall ensure that he or she is the only person who

has access to the election materials placed in the secure location. A major political party may designate individuals to monitor all access points to the secure location that contains the election material. The clerk shall provide space for an individual designated by the county chair of a major political party to monitor all access points to the secure location that contains the election materials until 1 p.m. on the day immediately following the election, unless additional security is required of the clerk by the board of county canvassers under subsection (3).

(3) On and after 1 p.m. on the day immediately following the election, the county clerk, a member of the board of county canvassers, or the county chair of a major political party may petition the board of county canvassers for security as prescribed in this section of the ballots, ballot boxes, voting machines, and other election material described in the petition and used in a precinct on election day. If the board of county canvassers grants the petition for the additional security, the board of county canvassers shall prescribe the amount of security to be provided and the persons responsible for that security.

History: Add. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

Popular name: Election Code

168.811 Election returns, records, and applications; preservation; destruction; time.

Sec. 811. All election returns, including poll lists, statements, tally sheets, absent voters' return envelopes bearing the statement required by section 761, absent voters' records required by section 760, and other returns made by the inspectors of election of the several precincts shall be carefully preserved and may be destroyed after the expiration of 2 years following the primary or election at which the same were used. All applications executed under section 523 and all absent voters' applications shall be carefully preserved and may be destroyed after the expiration of 6 years following the primary or election at which those applications were executed. All ballots used at any primary or election may be destroyed after 30 days following the final determination of the board of canvassers with respect to the primary or election unless a petition for recount has been filed and not completed or unless their destruction is stayed by an order of a court.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1963, Act 122, Imd. Eff. May 10, 1963;—Am. 2012, Act 271, Eff. Aug. 15, 2012.

Popular name: Election Code

168.812 Sending election results to secretary of state; obtaining election results.

Sec. 812. At the time the county canvass is forwarded a county clerk shall send to the secretary of state the results of the election in each precinct in his county for each office and proposal which is being voted upon on a statewide basis, for each congressional and legislative office, and for the judicial offices of the supreme court and court of appeals. A person may obtain the election results from the secretary of state upon payment of the reproduction costs.

History: Add. 1973, Act 24, Imd. Eff. June 12, 1973.

Popular name: Election Code

168.813 Provisional ballot; tabulation; report.

Sec. 813. (1) Within 6 days after an election, for each provisional ballot that was placed in a provisional ballot return envelope, the city or township clerk shall determine whether the individual voting the provisional ballot was eligible to vote a ballot and whether to tabulate the provisional ballot. In making this determination, the city or township clerk shall not open the provisional ballot return envelope. A provisional ballot shall only be tabulated if a valid voter registration record for the elector is located or if the identity and residence of the elector is established using a Michigan operator's license, chauffeur's license, personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 along with a document to establish the voter's current residence address as provided in section 523a(5). Before the provisional ballot is tabulated, election officials shall process the ballot as a challenged ballot under sections 745 and 746.

(2) Within 7 days after an election, but sooner if practicable, the city or township clerk shall transmit the results of provisional ballots tabulated after the election to the board of county canvassers. The results shall be transmitted in a form prescribed by the secretary of state.

(3) Within 7 days after an election, the city or township clerk shall transmit to the county clerk a provisional ballot report for each precinct in the jurisdiction. The report shall include for each precinct the number of provisional ballots issued, the number of provisional ballots tabulated on election day, the number of provisional ballots forwarded to the clerk to be determined after the election, the number of provisional ballots tabulated by the clerk after election day, and any additional information concerning provisional ballots

as required by the secretary of state.

(4) Within 7 days after an election, the city or township clerk shall transmit to the county clerk an affidavit report that includes the number of affidavits signed by voters under section 523(2). The affidavit report shall be transmitted to the county clerk in a form prescribed by the secretary of state.

History: Add. 2004, Act 92, Imd. Eff. Apr. 26, 2004;—Am. 2012, Act 523, Eff. Mar. 28, 2013.

Popular name: Election Code